IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8434 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAVINCHNDRA RAMANLAL JARIWALA

Versus

G.E.B.

Appearance:

1. Special Civil Application No. 8434 of 2004

MR ZUBIN F BHARDA for Petitioner No. 1

DS AFF.NOT FILED (N) for Respondent No. 1,3

MS LILU K BHAYA for Respondent No. 2

MR SN SINHA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 11/10/2004

ORAL JUDGEMENT

1, Rule. Mr.S.N.Sinha learned advocate waives

service of rule for respondent Board.

2. The petitioner herein has challenged the order dated 20/05/2003 passed by respondent no.3 in Appeal No.SZ/2003 (20), in so far as it is against the petitioner.

3. Heard the learned counsel for the respective parties. In the impugned order of the Appellate Committee, it is stated that the petitioner has not remained present in the hearing, in spite of repeated Notices and no reason has been assigned for his absence, particularly, for his absence on the date of the hearing of the appeal. As against that the case of the petitioner is that since the petitioner had not received any counter reply from the respondent Board for his submissions which were tendered on 21/11/2002, the petitioner did not remain present before the Appellate Committee on the date of the hearing of the appeal.

4. In view of the above position, I am of the opinion that the petitioner is required to be given a chance of hearing. Accordingly, the impugned order of the Appellate Committee is required to be quashed and set aside and the matter is required to be remanded to the Appellate Committee for fresh decision.

5. In the premises aforesaid, in the facts and circumstances of the case, the impugned order dated 20/05/2003 passed by the Appellate Committee, is quashed and set aside. The matter is remanded to the Appellate Committee for deciding the appeal of the petitioner afresh, after hearing the petitioner.

6. It is clarified that the Appellate Committee shall hear and decide the matter without being influenced by its earlier order which has been quashed in the present petition and also by the observations made in this order.

7. However, the petitioner shall pay a sum of Rs.1500/- (Rupees Fifteen Hundred only) to the respondent Board by way of costs, within a period of three weeks from today and the appeal of the petitioner shall be heard only after the payment of the aforesaid amount is made.

8. Rule is made absolute to the aforesaid extent.

[K.S. JHAVERI, J.]

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